

REMARKS

Reconsideration and further examination of the subject patent application is respectfully requested in view of the RCE submitted herewith, and in view of the present Amendment, and the following Remarks. Claims 1-46 are currently pending in the application. Claims 1, 22-24, and 36 have been rejected under 35 U.S.C. §112 as failing to comply with the written description requirement and failing to provide enablement for a complete communication path and for being indefinite. Claims 1-9, 16-20, 22, 36-39 and 45-46 have been rejected under 35 U.S.C. §102(e) as being anticipated by Schulze et al. ("Schulze") (U.S. Pub. No. 2001/0027384). Claims 13-15, 21, 23-28, 32-35, and 42-44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schulze in view of U.S. Pat. No. 6,857,072 to Schuster et al. ("Schuster"), and claims 10-12, 29-31, 40 and 41 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schulze in view of U.S. Pat. No. 6,823,318 to Creswell et al. ("Creswell"). Independent Claims 1, 22-24, and 36 have been amended for clarification. After careful review of the references and the claims, it is believed that the claims are in allowable form and therefore a Notice of Allowance is respectfully requested.

Claims 1, 22-24, and 36 have been rejected for claiming "complete communications path" without support in the original disclosure. Applicant respectfully traverses this rejection. The terms "complete" and "communication path" are common English words (e.g., complete – having all necessary parts, Webster's New Collegiate Dictionary; path – the physical route a telecommunications signal follows from transmitter to receiver, Newton's Telecom Dictionary). Thus, the phrase "complete communications path" is clear, and simply means a path (route) of

communication extending completely (entirely) from the customer station to the ACD. The term "complete" was inserted into the claim merely to clarify it is the entire path from end to end that is claimed and as such is clear to one skilled in the art. The Office Action asserts that the specification does not show any specific path, does not show all necessary parts that would make up the communications path, that the specification is unconcerned with the path, and does not specify the particular paths used. However, the claims do not claim specific paths or particular paths, only that the path or channel is complete from the customer station to the ACD. Such a complete path is shown as well as described throughout the specification. For example, Fig. 1 shows the complete path connecting the customer station 42 thru the PSTN 18 to the ACD 16 which is also described at p. 4, lines 11-14 of the specification. Similarly, a complete communication path from the customer units 28 through the external telephone network to the ACD system 16 is shown in Fig. 2. This is also described in the specification at page 4, lines 19-20," The multiport switch 26 is coupled, for example, to the PSTN 18 which in turn is connected to customer telephone 28." Fig. 5 shows the complete path from the cellular phone 88 thru the wireless networks 94 and the PSTN 18 to the ACD 16 as described at p. 9, last paragraph. Fig. 6 shows a complete path from the customer POTS telephone 110 through the PSTN 18 to the ACD 16 wherein voice, and data in the form of DTMF tones, are communicated simultaneously over the dedicated PSTN circuit as described at p. 10, second paragraph. Clearly, the specification and drawings provide extensive description and illustration of all necessary parts to enable a complete communications path from the customer station extending to the ACD as claimed. Thus, the claimed subject matter (i.e., "a complete communications path" or channel extending

from the customer station "to the ACD") is fully disclosed and enabled in the specification. The Office Action also concedes that the specification is enabling for a communication channel between the customer and the ACD. However, the enabling disclosure of a complete communication channel as described above also does provide an enabling disclosure of a complete path. Further, claims 22-24 and 36 no longer use the term "complete." Accordingly, withdrawal of the rejected under 35 U.S.C. §112 is respectfully requested.

Claims 1-9, 16-20, 22, 36-39 and 45-46 have been rejected as anticipated by Schulze. Independent claims 1, 22, 23, 24 and 36 recite that the communication channel/path that connects the customer and ACD agent extends from the customer station to the ACD. Thus, the claimed first communication process and second communication process are on the same channel between the same endpoints. Claims 1, 22-24, and 36 have been amended for clarification of the channel/path.

In contrast, Schulze involves two separate communications channels and automatically acquired data. In Schulze, as shown in Fig. 1 and described at paragraph 0047-48, voice traffic is transmitted through the communications channel made up of the combined wireless network 20 and the PSTN 22 to the 911 operator or medical care provider, but data is transmitted over a different communications channel established thru the network 20 through an Interworking Function 24 to the Internet 26 for retrieval through the host 30. Thus, there are two different communications channels.

The Office Action asserts that Schulze sends data over the cellular network to the host and transmits voice and data over the cellular network. However, no communication path or

channel from the customer station to the ACD as claimed is established in Schulze solely through the cellular network (i.e. in Schulze, the network 20 alone does not form a channel which connects the customer and the ACD). As described in the cited paragraph 0045, Schultze describes the data as being transmitted "over a cellular network to the Internet and then to the Host", and in para. 0044 "Data from the monitoring system are then sent in a wireless mode over a cellular network to the Internet and then to a data analysis center (Host)." Thus, the data is transmitted over a cellular network/TWF/ internet communications channel which is necessarily a different channel than the channel used for voice communication which is a channel established through the cellular system 20 and the PSTN 22. (Para. 0048 "...voice traffic is being transmitted from the patient, a cellular network 20 connects the public telephone network 22..."). These two different communications channel paths can be seen clearly in Fig. 1, with the voice path from the MVPM 22 through the WN 20 on voice channel 14 through the WN 20 then thru the PSTN 27 to provider 28; and the data path from MVPM 12 through NW 20 through IWF 24 then thru Internet 26 to Host 30. These are clearly different channel paths to different destinations (with the provider having to subsequently retrieved the data from the Host). Thus, the cellular network of Schultze is not a channel that extends from the customer station to the ACD as claimed. Schultze's cellular network 20 is not the claimed channel as asserted by the Office Action because it does not extend from the customer station to the ACD, it forms only a portion of what corresponds to the claimed channel. The claim specifically calls for the channel to extend from the customer station to the ACD, which Schultze's cellular network does not do.

The Office Action asserts that Schultze discloses transmission of voice and data over the

cellular network 20 to the medical care provider 28, and that the application specification does not disclose the specific path with which the voice and data travel to the destination. However, Schultze, as discussed above, does not disclose transmission from the customer to the ACD on the same channel as claimed. As discussed above, the complete communication path for voice and data from customer to ACD is shown and described in the specification (see e.g., Fig. 5, p. 9, lines 22-30 and Fig. 6, p. 10, lines 6-18 which shows a POTS telephone 110 connected from the customer to the ACD through a dedicated PSTN circuit to provide for simultaneous voice and data communications through the entire communication path from the customer to the ACD). Therefore, Schultze's use of a different path results in a substantially different system in which data is first stored at the remote host and then later relayed to the medical care provider 28.

In addition, Schultze does not concern manually or by hand entered customer data as claimed in claims 1, 22, 24, and 36. The Office Action asserts data transmitted by the MVPM of Schultze is physiological data about the patient which meets the limitation of customer manually entered data. However, this data is changing real-time biological data which is being automatically acquired by MVPM with no manual effort by the patent. The term "manually" has a well recognized meaning to one of ordinary skill ("worked or done by hand and not by machine" Webster's New Collegiate Dictionary, 1977). The automatically acquired physiological data of Schultze is the opposite of the manually entered data claimed. Thus, Schultze does not disclose this feature. In addition, the Office Action asserts that Schultze discloses predetermined customer data automatically transmitted to the ACD upon receiving a predetermined signal claimed because Schultze discloses transmitting the physiological data.

However, the physiological data is acquired real-time changing data, which is the opposite of predetermined data, and is also not identification data (claim 36, e.g., p. 6, last paragraph). Therefore, independent claims 1, 22, 23, 24 and 36 which claim use of the same channel to the same destination (i.e. the ACD) for both communication processes and predetermined data or identification data, and claims 1, 22, 24, and 36, which claim manual or by hand data, are believed to be distinguishable over Schulze. In addition, neither Schuster, nor Creswell disclose these features. Thus, independent claims 1, 22, 23, 24 and 36 are believed to be allowable over any combination of the cited references. The dependent claims 2-21, 25-35, and 37-46 are also believed to be allowable because they depend from allowable base claims.

For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits a Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to an extension of time fee, RCE fee, or the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,

WELSH & KATZ, LTD.

A handwritten signature in cursive script, appearing to read "James A. Scheer", is written over a horizontal line.

James A. Scheer

Registration No. 29,434

(312) 526-1545

Dated: February 6, 2008

WELSH & KATZ, LTD.

Customer No. 24628